BEFORE THE BOARD OF BEHAVIORAL SCIENCES DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

LYNNDAL KEITH DANIELS 204 Pelican Cove Terrace San Francisco, CA 94134 Marriage and Family Therapist Registration Application

Respondent.

Case No. AP-2008-1092

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Behavioral Sciences, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 28, 2010

It is so ORDERED April 28, 2010

FOR THE BOARD OF BEHAVIORAL SCIENCES DEPARTMENT OF CONSUMER AFFAIRS

1 2 3 4 5 6 7	EDMUND G. BROWN JR. Attorney General of California GLORIA BARRIOS Supervising Deputy Attorney General KIMBERLEE D. KING Deputy Attorney General State Bar No. 141813 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2581 Facsimile: (213) 897-2804 Attorneys for Complainant		
8 9	BEFORE THE BOARD OF BEHAVIORAL SCIENCES DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10 11 12 13 14 15 16	In the Matter of the Statement of Issues Against: LYNNDAL KEITH DANIELS 204 Pelican Cove Terrace San Francisco, CA 94134 Marriage and Family Therapist Intern Registration Application Respondent.		
17 18	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
19	entitled proceedings that the following matters are true:		
20	PARTIES 1. Paul Riches (Complainant) is the Executive Officer of the Board of Behavioral		
21 22	1. Paul Riches (Complainant) is the Executive Officer of the Board of Behavioral Sciences. He brought this action solely in his official capacity and is represented in this matter by		
23	Edmund G. Brown Jr., Attorney General of the State of California, by Kimberlee D. King,		
24	Deputy Attorney General.		
25	2. Respondent, Lynndal Keith Daniels (Respondent) is representing himself in this		
26	proceeding and has chosen not to exercise his right to be represented by counsel.		
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3. On or about April 14, 2008, Respondent filed an application dated March 24, 2008, with the Board of Behavioral Sciences to obtain a Marriage and Family Therapist Intern Registration.

JURISDICTION

4. Statement of Issues No. AP-2008-1092 was filed before the Board of Behavioral Sciences (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on July 20, 2009. Respondent timely filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. AP-2008-1092 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. AP-2008-1092. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. AP-2008-1092.

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9. Respondent agrees that his Marriage and Family Therapist Intern Registration
Application is subject to denial and he agrees to be bound by the Board of Behavioral Sciences
(Board)'s imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

- 10. This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Lynndal Keith Daniels be issued a Registration as a Marriage and Family Therapist Intern. Said Registration shall be revoked upon issuance. The revocation will be stayed and Respondent placed on five (5) years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is issued a subsequent registration or becomes licensed during the probationary period.

1. Psychotherapy. Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional that has been approved by the Board. Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, and shall not be the respondent's supervisor. Counseling shall be at least once a week for the first 12 months of Respondent probation will. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if respondent's good faith attempts to secure face-to-face counseling are unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its

designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

- 2. Reimbursement of Probation Program. Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be in the amount of \$1,200 per year.
- 3. Obey All Laws. Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.
- 4. File Quarterly Reports. Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether he/she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.
- 5. Comply with Probation Program. Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.
- 6. Interviews with the Board. Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.
- 7. Residing or Practicing Out-of-State. In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period

of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4986.10 or 4996.9 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in practice within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

- 8. Failure to Practice- California Resident. In the event respondent resides in the State of California and for any reason respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4986.10 or 4996.9 of the Business and Professions Code.
- 9. Change of Place of Employment or Place of Residence. Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

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10. Supervision of Unlicensed Persons. While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

11. Notification to Clients. Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

Respondent should seek guidance from Board staff regarding appropriate application of this condition.

- 12. Notification to Employer. Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.
- 13. Violation of Probation. If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the revocation of respondent 's as provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's registration or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or

Statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's registration shall be fully restored.

- 14. Maintain Valid License. Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.
- 15. License Surrender. Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure, respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.

16. Instruction of Coursework Qualifying for Continuing Education. Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

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17. Notification to Referral Services. Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Marriage and Family Therapist Intern Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Behavioral Sciences.

dated: *3///*

LYNNDAL KEITH DANIELS

Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Behavioral Sciences of the Department of Consumer

Affairs.

Dated: _3/15/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GLORIA BARRIOS

Supervising Deputy Attorney General

KIMBERLEE D. KING
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. AP-2008-1092

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4	Deputy Attorney General			
5	Los Angeles, CA 90013 Telephone: (213) 897-2581			
	Facsimile: (213) 897-2804			
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8	BEFORE THE BOARD OF BEHAVIORAL SCIENCES			
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11	In the Matter of the Statement of Issues Against:	Case No. AP-2008-1092		
12	LYNNDAL KEITH DANIELS			
13	204 Pelican Cove Terrace San Francisco, CA 94134	STATEMENT OF ISSUES		
14				
15	Marriage and Family Therapist Intern			
16	Registration Application			
17	Respondent.			
18				
19	Complainant alleges:			
20	<u>PARTIES</u>			
21	1. Paul Riches (Complainant) brings this Statement of Issues solely in his			
22	official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of			
23	Consumer Affairs.			
24	2. On or about April 3, 2008, the Board of Behavioral Sciences, Department			
25	of Consumer Affairs (Board) received an application for a Marriage and Family Therapist Intern			
26	Registration from Lynndal Keith Daniels (Respondent). On or about March 24, 2008, Lynndal			
27	Keith Daniels certified under penalty of perjury to the truthfulness of all statements, answers, and			
2.8	representations in the application. The Board denied the application on June 17, 2008			

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 5. Section 480 states, in pertinent part:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

 Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- "(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."
- 6. Section 490 states, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued..
 - 7. Section 4982 states:

"The board may deny a license or registration, or may suspend or revoke the license or registration of any licensee or registrant if he or she has been guilty of unprofessional

"(a)

discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

functions, or duties of a licensee or registrant under this chapter. The record of conviction shall

be conclusive evidence only of the fact that the conviction occurred. The board may inquire into

the circumstances surrounding the commission of the crime in order to fix the degree of

The conviction of a crime substantially related to the qualifications,

"(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the Board."

"(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Convictions of Substantially Related Crimes)

8. Respondent's application is subject to denial under section 480, subdivision (a)(3), in conjunction with section 4982, subdivision (a), in that Respondent was

convicted of crimes substantially related to the qualifications, functions or duties of a Marriage and Family Therapist Intern, as follows:

- a. On or about October 10, 1985, Respondent was convicted by the Court on a plea of guilty for violating Oklahoma Penal Code section 21-1462 (embezzlement), a felony, in the criminal proceeding entitled *The State of Oklahoma v. Lyndal Keith Daniels* (Seventh Judicial District Oklahoma County, 1985, No. CRF-85-4596).
- b. On or about March 10, 1989, Respondent was convicted by the Court on a plea of guilty for violating Oklahoma Penal Code section 21-0S801(robbery with firearm), a felony, in the criminal proceeding entitled *The State of Oklahoma v. Lynndal Keith, Daniels* (District Ct. Oklahoma County, 1989, No. CRF-89-94). Respondent was sentenced to twenty-five years in prison, to run concurrently with CRF-89-14 & CRF-89-59.
- c. On or about April 26, 1989, Respondent was convicted by the Court on a plea of guilty for violating Oklahoma Penal Code section 21-0S801 (first degree robbery by fear), a felony, in the criminal proceeding entitled *The State of Oklahoma v. Lymndal Keith Daniels* (District Ct. Cleveland County, 1989, No. CRF-89-59). Respondent was sentenced to twenty-five years in prison, to run concurrently with CRF-89-14 and CRF-89-94.

SECOND CAUSE FOR DISCIPLINE

(Commission of Dishonest, Corrupt, or Fraudulent Act)

9. Respondent is subject to disciplinary action under section 4982, subdivision (j) in that Respondent committed dishonest, corrupt, and/or fraudulent acts substantially related to the qualifications, functions, or duties of a licensee or registrant. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 8, including its subparagraphs 8(a) through 8(c), as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Conduct Which Would Have Warranted the Revocation of a Marriage and Family Therapist License)

9. Respondent is subject to disciplinary action under section 480 (a)(3), in conjunction with section 49 and 4982, subdivision (a) in that Respondent engaged in conduct

1	which would have warranted the revocation of a Marriage and Family Therapist License.		
2	///		
3	Complainant refers to, and by this reference incorporates, the allegations set forth above in		
4	paragraph 8, including its subparagraphs 8(a) through 8(c), as though set forth fully.		
5	<u>PRAYER</u>		
6	WHEREFORE, Complainant requests that a hearing be held on the matters herein		
7	alleged, and that following the hearing, the Board issue a decision:		
8	Denying the application of Respondent for a Marriage and Family		
9	Therapist Intern Registration, and		
10	2. Taking such other and further action as deemed necessary and proper.		
11	DATED: <u>July 13, 2009</u>		
12			
13	PAUL RICHES		
14	Executive Officer Board of Behavioral Sciences		
15	Department of Consumer Affairs State of California		
16	Complainant		
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